



U.S. Department  
of Transportation  
**Research and  
Special Programs  
Administration**

400 Seventh St., S.W.  
Washington, D.C. 20590

SEP 7 2004

Mr. Timothy J. Eberling  
Safety and Regulatory Manager  
Fomo Products Inc.  
2775 Barber Road  
Norton, Ohio 44203

Reference No.: 04-0117

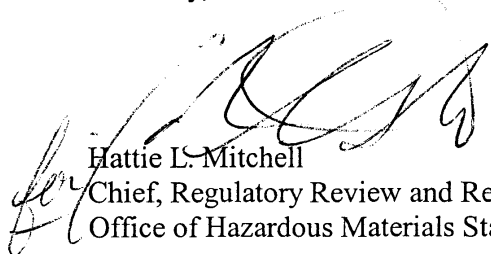
Dear Mr. Eberling:

This is in response to your letter dated May 4, 2004 regarding the loading requirements for Class 2 (gases) under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether the requirements in § 177.840(a) prohibit DOT 39 specification cylinders that are packaged in 4G packaging and palletized from being doubled stacked.

The answer is no. Non-bulk packagings including cylinders containing hazardous materials may be stacked or "double stacked" in a transport vehicle provided, as stated in § 177.840(a) the floor or platform is essentially flat. Although, the HMR do not prohibit stacking, a person loading hazardous materials in non-bulk packagings (e.g., 4G boxes) into a transport vehicle must determine whether stacking could reduce the integrity of the packages.

I trust this satisfies your request.

Sincerely,

  
Hattie L. Mitchell  
Chief, Regulatory Review and Reinvention  
Office of Hazardous Materials Standards



040117

**Fomo Products, Inc.**  
A Member of the FLM Group of Companies

May 4, 2004

U.S. Department of Transportation  
Research and Special Programs Administration  
Office of Hazardous Materials Standards  
Attention: Mr. Ed Mazzullo  
400 Seventh Street S.W.  
Washington D.C. 20590

*Belts*  
*Webb*  
*\$177.840*  
*Cylinders*  
*04-0117*  
*9/17/04*

Dear Mr. Mazzullo:

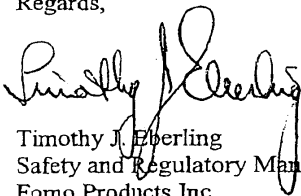
This letter is to provide an official request for written interpretation of a part of the 49 CFR. Part 177.840 to be specific. This part basically states that "Cylinders containing Class 2 (gases) materials shall not be loaded onto any part of the floor or platform of any motor vehicle which is essentially not flat;...." This in turn is being interpreted as that we cannot double stack even the carrier protects/prevents against movement by securing his lading which they have to do anyway. Our product is a poly-urethane insulating sealant foam that is dispensed out of DOT 39 specification cylinders that are individually or doubly packed into UN tested and approved 4G corrugated packaging with a 44 ECT test rating and then stacked onto pallets, 13 to each layer, 2 layers to each pallet. The top of the pallet is as flat as the floor of the transportation unit and creates the same area on the top of the loaded pallet as the pallet area itself 48 inches by 48 inches. These 4G's are stack tested to 270 pounds each.

These products are shipped as Compressed Gases n.o.s. (fluorocarbon) UN1956 2.2. The 2.2 gas is not the only material in the container as a matter of fact the gas makes up only about 20% of the filled material in each container. We have had some carriers refuse to double stack this product because of their interpretation of this part of the regulations since we do ship Class 2 in these containers.

I have solicited and received a verbal interpretation from the DOT hazardous materials hot line that basically had agreed with my interpretation that 177.840 does not apply to our Class 2 product since the cylinders are packaged in 4G's and they are shrink wrapped to form a solid base with which to stack safely upon. Furthermore they stated that the requirements of 177.834 specifically paragraphs (a) and (b) are more applicable to our product then the 177.840. I even asked the gentleman assisting me to double check with another person in the department to make sure what they interpreted was their true understanding of this section and they both agreed as I have stated here.

Can you please request that you expedite your reply as to the intent of the 177.840 and whether or not it is applicable to our product as described because it is currently causing a financial hardship for our company. I am also forwarding a copy of this request by fax to help speed the reply if possible. We appreciate your quick response and thank you for your involvement in this our first ever request for written interpretation.

Regards,



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